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+IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2020

CORAM

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

C.M.A. No.551 of 2017

Sengodan

...Appellant/Petitioner

Vs

1.Balasubramaniam

2.United India Insurance Company Ltd.,
Divisional Office,
No.2, Dr. Sankaran Road,
Namakkal Town & District.

...Respondents/Respondents

(The 1st Respondent remained exparte
before the Tribunal, hence notice may
be dispensed with for the 1st Respondent)

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 17.11.2012 made in M.C.O.P. No.289 of 2011 on the file of MACT / Additional District Court, Namakkal.

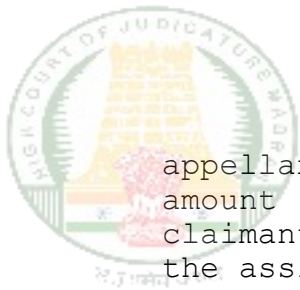
For Appellant	:	Mr. Ma.P.Thangavel
For Respondents 1	:	Ex-parte
2	:	Ms. I.Malar

JUDGMENT

This appeal is preferred by the claimant in M.C.O.P. NO.289 of 2011 on the file of MACT / Additional District Court, Namakkal.

2. The appellant met with an accident while he was driving his two wheeler on the way to Rasipuram. Hence, he filed a petition claiming compensation for a sum of Rs.5,00,000/- before the Motor Accident Claims Tribunal, Namakkal. As against the claim of Rs.5,00,000/-, the Tribunal awarded a sum of Rs.3,00,000/- with interest at the rate of 7.5% per annum. Aggrieved by the same, the appellant has preferred this appeal.

3. Learned counsel for the appellant pointed out that for the injury, the Tribunal has awarded only a sum of Rs.12,000/-. Even though the claimant was taking treatment for a long time for the multiple fractures, the Tribunal has awarded only a sum of Rs.25,000/- towards loss of income. Learned counsel for the



appellant submitted that the Tribunal has failed to award any amount towards attendant charges despite the fact that the claimant had undergone treatment for a long time and required the assistance of attendant.

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4. Learned counsel for the second respondent submitted that the Tribunal has granted just compensation for the appellant and that no further enhancement is permissible.

5. Considering the fact that the claimant suffered multiple fractures, this Court is of the view that the claimant is entitled to a sum of Rs.25,000/- towards injury as against the award of Rs.12,000/-. Similarly, the disability was arrived at 40% by the Tribunal. Therefore, the loss of income also should be not less than Rs.40,000/-. Having regard to the nature of injury, this Court is inclined to allow a sum of Rs.5,000/- towards attendant charges. In all, the Tribunal ought to have awarded a sum of Rs.3,33,000/- instead of Rs.3,00,000/- as compensation to the appellant. Therefore, the award of Tribunal is modified by awarding a sum of Rs.3,33,000/- as compensation along with interest at the rate of 7.5% from the date of claim petition till the date of realisation. The second respondent is directed to deposit the balance amount within a period of twelve weeks from the date of receipt of a copy of this order. On such deposit, the appellant is entitled to withdraw the same.

6. As a result, the Civil Miscellaneous Appeal is partly allowed and the judgment passed by MACT / Additional District Court, Namakkal, in M.C.O.P. No.289 of 2011, dated 17.11.2012, is modified to the extent indicated above. No costs.

s/d-
Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

bkn
To

The Motor Accident Claims Tribunal /
Additional District Judge
Namakkal.

+1 CC to Mr.Ma.P. Thangavel, Advocate sr 36993.

C.M.A. No.551 of 2017

KK (CO)
SP (09/09/2021)